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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,630	10/01/2001	Jiang Liang	RD-29301	2277

6147 7590 03/27/2002

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EXAMINER

WESSMAN, ANDREW E

ART UNIT PAPER NUMBER

1742

DATE MAILED: 03/27/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

MFV

Office Action Summary	Application No. 09/682,630	Applicant(s) LIANG ET AL.	
	Examiner Andrew E Wessman	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 9-15 and 20-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-15, and 20-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-4, 9-15, and 20-34 remain for examination. Claims 5-8 and 16-19 have been cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 10-15, and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinacher et al.

Reinacher et al. is applied to the claims for the reasons set forth in paper No. 3, paragraph 5.

In regards to the amended features of the claims, the changing of the phrase "comprising" to "consisting essentially of" is insufficient to overcome the rejection. The phrase "consisting essentially of" still allows for minor amounts of other elements to be present in the alloy, (e.g. allowing for a minor amount of zirconium to be present in the alloy). The alloys of Reinacher et al. can contain as little as 0.1wt% zirconium (see col. 2, lines 45-51), and thus could be included by such language. Also, with regards to the alloys being completely free of zirconium, it has been held that elimination of an element and its function is obvious if the function of the element is not desired. *Ex parte Wu*, 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989). Because Reinacher et al. teaches (see abstract or col. 2, lines 8-12) that zirconium is added to the alloy for strength, the

omission of zirconium with a loss of strength in the alloy would have been obvious to one of ordinary skill in the art. As evidenced by table 3 in applicant's specification and in example 2 of applicant's specification, the alloy containing only platinum group metals does show a loss in strength compared with the alloy containing and addition of zirconium. It is the burden of the applicant to show some unexpected advantage by virtue of the exclusion of all elements except the platinum group, the claimed alloy would have materially different properties in comparison with Reinacher et al.'s alloy.

4. Claims 9 and 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reinacher et al. in view of Selman et al.

Reinacher et al. in view of Selman et al. is applied to the claims for the same reasons set forth in paper No. 3, paragraph 6.

In regards to the amended features of the claims, as discussed in above paragraph 3, the change of the claims from "comprising" to "consisting essentially of" is insufficient to overcome the rejection.

It is noticed that claim 34 still contains "comprising" in the claim limitations. Because of the fact that all other instances of "comprising" have been changed in the claims, it is assumed that this is merely an oversight and will be treated as such.

Response to Arguments

5. Applicant's arguments filed January 24, 2002 have been fully considered but they are not persuasive. In the remarks, applicant argues:

Changing of the claim language from "comprising" to "consisting essentially of" is sufficient to distinguish the claimed invention from the prior art.

The examiner's position with regard to applicant's argument is clearly stated in above paragraph 3.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew E Wessman whose telephone number is (703)305-3163. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (703)308-1146. The fax phone numbers for

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the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

AEW
March 26, 2002


ROY KING
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700